

KANSAS STATUTES

PERTAINING TO

PUBLIC WATER SUPPLY



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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - SECRETARY OF HEALTH & ENVIRONMENT ACTIVITIES	
65-102a	Materials relating to environmental concerns; public inspection; copies, fee, approval; disposition of moneys1
65-156	Regulations and fees1
65-157	Same; analysis by office of laboratory services; disposition of fees1
65-162a	Public water supply systems; definitions1
65-163	Public water supply systems and water treatment residues; regulation; permits; investigations2
65-163a	Same; cessation of water delivery, when; order by secretary, judicial review4
65-163c	Same; public water supply fee fund; authorized expenditures; interest transferred from state general fund4
65-163d	Public water supply project loan program; definitions 4
65-163e	Same; public water supply loan fund established; sources of revenue; purposes for disbursements therefrom.5
65-163f	Same; authority and duties of the secretary of health and environment; rules and regulations.5
65-163g	Same; project priority system development; priority list preparation, considerations 6
65-163h	Same; intended use plan for available moneys6
65-163i	Same; applications for loans; loan agreements, provisions; provisions of technical assistance by secretary6
65-163j	Same; loan repayment sources of municipalities; imposition of charges by secretary; remedy for failure to repay project loans; maintenance of project accounts7
65-163k	Same; annual reports.....7
65-163l	Same; authority to issue bonds8

65-163m	Same; bond resolutions, contents; authorities of secretary relating to issuance of bond	8
65-163n	Same; bonds issued not state indebtedness; enforceability of contracts, agreements and covenants	8
65-163o	Same; issuance of refunding bonds.....	9
65-163p	Same; disposition of revenue derived from bond sales	9
65-163q	Same; income from bonds exempt from taxation	9
65-163r	Same; bonds deemed legal and proper securities for investment by governmental entities	9
65-163s	Same; powers supplemental to other powers of the secretary; severability	9
65-163t	Same; publication of notice of bonds issuance, contents; actions to contest, timing	10
65-163u	Same; general obligation bond issuance authority for municipalities; election not required and not subject to bonded debt limitations	10
65-170	Director of the division of environment; duties in carrying out the provisions of 65-161 to 65-170.....	10
65-170a	Public water supply systems, water pollution, sewage discharge; "person" defined	11
65-170b	Same; access to properties and facilities; inspection and monitoring requirements	11
65-170c	Penalties for making false statement, representation or certification	11
65-170d	Public water supply systems; pollution violations; penalties; procedure; hearings.....	11
65-171g	Protection of water and air from sewage contamination	12
65-171h	Minimum standards for sanitary water and sewage systems.....	12
65-171i	Same; analyses to be performed by laboratory certificated by secretary	12
65-171m	Public water supply systems; primary drinking water standards; rules and regulations, authority to adopt, scope; stringency of standards; requiring fluorides prohibited	13

65-171n	Same; development of emergency plans by secretary	13
65-171o	Public water supply systems; suppliers to provide notice, when; form of notice.	14
65-171p	Public water supply systems; variances; conditions; notice; requests for public hearing scheduled compliance.	14
65-171q	Same; exemptions; required findings; notice; requests for public hearings; scheduled compliance.	14
65-171r	Same; prohibited acts.....	15
65-171s	Same; violation of standards; penalties; procedure; hearing; judicial review	16
65-171t	Same; attorney general to seek injunctive relief.....	16
65-171y	Public water supply system regulation of lawn irrigation systems.....	17

Chapter 65.--PUBLIC HEALTH

Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

65-102a. Materials relating to environmental concerns; public inspection; copies, fee, approval; disposition of moneys. All correspondence, written materials or other documents relating to environmental concerns, for which public release of such information is not prohibited, shall be available for public inspection in the offices of the secretary of health and environment during regular office hours. Copies of such correspondence, written materials or other documents shall be made available upon request and payment of a fee for each page so provided in an amount fixed by the secretary of health and environment and approved by the director of accounts and reports under K.S.A. 45-204, except that no charge shall be made to any member of the legislature obtaining such copies for his or her official use and no charge shall be made for fact sheets and other materials required by federal law or regulation to be supplied to the public. The secretary shall remit all moneys received by him or her from such fees to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

History: L. 1973, ch. 240, § 1; L. 1975, ch. 462, § 69; L. 1978, ch. 347, § 9; July 1

65-156. Regulations and fees. The secretary of health and environment shall make rules and regulations for the collection of samples and analysis of water, either natural or treated, furnished by municipalities, corporations, companies or individuals to the public, and shall fix the fees for any services rendered under said rules and regulations to cover the cost of the services.

History: L. 1915, ch. 327, § 1; R.S. 1923, 65-156; L. 1974, ch. 352, § 17; L. 1975, ch. 312, § 1; July 1.

65-157. Same; analysis by office of laboratory services; disposition of fees. The analysis of all waters required in the rules and regulations shall be made by the office of laboratory services of the department of health and environment and the fees collected under the provisions of this act by the secretary of health and environment shall be remitted by the secretary to the state treasurer at least monthly. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

History: L. 1915, ch. 327, § 2; R.S. 1923, 65-157; L. 1974, ch. 352, § 18; L. 1975, ch. 312, § 2; July 1.

65-162a. Public water supply systems; definitions. As used in K.S.A. 65-163 and 65-163a, and in K.S.A. 65-171m to 65-171t, inclusive, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section: (a) "Person" means an individual, corporation, company, association, partnership, state, municipality or federal agency. (b) "Public water supply system" means a system for the provision to the public of piped water for human consumption, if such system has at least ten (10) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes any source, treatment, storage or distribution facilities

under control of the operator of the system and used primarily in connection with the system, and any source, treatment, storage or distribution facilities not under such control but which are used in connection with such system. (c) "Secretary" means the secretary of health and environment. (d) "Supplier of water" means any person who owns or operates a public water supply system.

History: L. 1977, ch. 212, § 1; April 14.

65-163. Public water supply systems and water treatment residues; regulation; permits; investigations. (a) (1) No person shall operate a public water supply system within the state without a public water supply system permit from the secretary. An application for a public water supply system permit shall be submitted for review and approval prior to construction and shall include: (A) A copy of the plans and specifications for the construction of the public water supply system or the extension thereof; (B) a description of the source from which the water supply is to be derived; (C) the proposed manner of storage, purification or treatment for the supply; and (D) such other data and information as required by the secretary of health and environment. No source of water supply in substitution for or in addition to the source described in the application or in any subsequent application for which a public water supply system permit is issued shall be used by a public water supply system, nor shall any change be made in the manner of storage, purification or treatment of the water supply without an additional public water supply system permit obtained in a manner similar to that prescribed by this section from the secretary. (2) Whenever application is made to the secretary for a public water supply system permit under the provisions of this section, it shall be the duty of the secretary to examine the application without delay and, as soon as possible thereafter, to grant or deny the public water supply system permit subject to any conditions which may be imposed by the secretary to protect the public health and welfare. (3) The secretary may adopt rules and regulations establishing a program of annual certification by public water supply systems that have staff qualified to approve the extension of distribution systems without the necessity of securing an additional permit for the extension provided the plans for the extension are prepared by a professional engineer as defined by K.S.A. 74-7003, and amendments thereto. (b) (1)

Whenever a complaint is made to the secretary by any city of the state, by a local health officer, or by a county or joint board of health concerning the sanitary quality of any water supplied to the public within the county in which the city, local health officer or county or joint board of health is located, the secretary shall investigate the public water supply system about which the complaint is made. Whenever the secretary has reason to believe that a public water supply system within the state is being operated in violation of an applicable state law or an applicable rule and regulation of the secretary, the secretary may investigate the public water supply system. (2) Whenever an investigation of any public water supply system is undertaken by the secretary, it shall be the duty of the supplier of water under investigation to furnish to the secretary information to determine the sanitary quality of the water supplied to the public and to determine compliance with applicable state laws and rules and regulations. The secretary may issue an order requiring changes in the source or sources of the public water supply system or in the manner of storage, purification or treatment utilized by the public water supply system before delivery to consumers, or distribution facilities, collectively or individually, as may in the secretary's judgment be necessary to safeguard the sanitary quality of the water and bring about compliance with applicable state law and rules and regulations. The supplier of water shall comply with the order of the secretary. (c) (1) As used in this subsection (c), "municipal water treatment residues" means any solid, semisolid or liquid residue generated during the treatment of water in a public water supply system treatment works. (2) A

public water supply system may place or store municipal water treatment residues resulting from sedimentation, coagulation or softening treatment processes in basins on land under the ownership and control of the public water supply system operator provided that such storage or placement is approved and permitted by the secretary under this section as part of the public water supply system.

(3) The secretary shall adopt uniform and comprehensive rules and regulations for the location, design and operation of such basins. Such rules and regulations shall require permit applications by the public water suppliers for such basins to include a copy of the plans and specifications for the location and construction of each basin, the means of conveyance of the treatment residues to such basins, the content of treatment residues, the proposed method of basin operation and closure, the method of any anticipated expansion and any other data and information required by the secretary.

(4) Whenever complaint is made to the secretary by the mayor of any city of the state, by a local health officer or by a county or joint board of health, or whenever an investigation is undertaken at the initiative of the secretary, relating to any alleged violation of the provisions of the permit for placement or storage of municipal water treatment residues in such basins, the public water supply system operator shall furnish all information the secretary requires. If the secretary finds that there is any violation of the terms of the permit, that the means of placement and storage exceed the terms of the permit or that any other condition exists by reason of the means of placement and storage that may be detrimental to the health of any inhabitants of the state or to the environment, the secretary shall have the authority to issue an order amending the permit or otherwise requiring the operator to perform remedial measures to curtail or prevent such detrimental conditions. (d) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The court on review shall hear the case without delay. (e)

The secretary shall establish by rule and regulation a system of fees for the inspection and regulation of public water supplies. No such fee shall exceed \$.002 per 1,000 gallons of water sold at retail by a public water supply system. All such fees shall be paid quarterly in the manner provided for fees imposed on retail sales by public water supply systems pursuant to K.S.A. 82a-954 and amendments thereto. The secretary shall remit to the state treasurer all moneys collected for such fees. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the public water supply fee fund created by K.S.A. 65-163c and amendments thereto. (f) There is hereby created an advisory committee to make recommendations regarding: (1) Fees to be adopted by the secretary under subsection (e); (2) means of strengthening on-site technical assistance to public water supply systems; (3) standards for on-site and classroom water treatment operator certification programs; (4) other matters concerning public water supplies; and (5) to advise the secretary regarding expenditure of moneys in the public water supply fee fund created by K.S.A. 65-163c and amendments thereto. Such advisory committee shall consist of one member appointed by the secretary to represent the department of health and environment, one member appointed by the director of the Kansas water office to represent such office and two members appointed by the secretary as follows: One from three nominations submitted by the Kansas section of the American waterworks association, and one from three nominations submitted by the Kansas rural water association. Members of the advisory committee shall serve without compensation or reimbursement of expenses. The advisory committee shall meet at least four times each year on call of the secretary or a majority of the members of the committee.

History: L. 1907, ch. 382, § 3; L. 1909, ch. 226, § 1; R.S. 1923, 65-163; L. 1943, ch. 219, § 1; L. 1974, ch. 352, § 22; L. 1977, ch. 212, § 2; L. 1980, ch. 182, § 22; L. 1983, ch. 204, § 1; L. 1986, ch. 318, § 82; L. 1992, ch. 188, § 1; L. 1994, ch. 126, § 1; L. 1996, ch. 160, § 1; July 1.

65-163a. Same; cessation of water delivery, when; order by secretary, judicial review.

(a) Any supplier of water may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and may continue to refuse the delivery of water to the premises until the condition is remedied. (b) The secretary may order a supplier of water: (1) To cease the delivery of water through pipes and mains to a premise or premises where a condition exists which might lead to the contamination of the public water supply system; or (2) to cease an activity which would result in a violation of the state primary drinking water standards; or (3) to cease an activity which results in a continuing violation of the state primary drinking water standards; or (4) to comply with any combination of these orders. The supplier of water shall immediately comply with an order issued by the secretary under this section. (c) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The court on review shall hear the appeal without delay.

History: L. 1943, ch. 219, § 2; L. 1974, ch. 352, § 23; L. 1977, ch. 212, § 3; L. 1986, ch. 318, § 83; July 1.

65-163c. Same; public water supply fee fund; authorized expenditures; interest transferred from state general fund. (a) There is hereby established in the state treasury the public water supply fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund: (1) Fees collected under K.S.A. 65-163 and amendments thereto; and (2) interest attributable to investment of moneys in the fund. (b) Moneys deposited in the public water supply fee fund shall be expended only to: (1) inspect and regulate public water supplies and (2) provide training, assistance and technical guidance to public water supply systems, including on-site technical assistance by the department or by a contractor contracting with the department in complying with the federal safe drinking water act (42 U.S.C. 300f et seq.) and regulations adopted under such act. The advisory committee established by K.S.A. 65-163 and amendments thereto shall advise the secretary regarding expenditures from the fund. (c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the public water supply fee fund interest earnings based on: (1) The average daily balance of moneys in the public water supply fee fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. (d) All expenditures from the public water supply fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

History: L. 1992, ch. 188, § 2; L. 1996, ch. 253, § 10; L. 1996, ch. 253, § 11; July 1.

65-163d. Public water supply project loan program; definitions. As used in K.S.A. 1999 Supp. 65-163d through 65-163u and amendments thereto: (a) "Fund" means the public water supply loan fund established by K.S.A. 1999 Supp. 65-163e and amendments thereto. (b) "Municipality" means: (1) Any political or taxing subdivision authorized by law to construct, operate and maintain a public water supply system, including water districts; (2) two or more such subdivisions jointly constructing, operating or maintaining a public water supply system; or (3) the Kansas rural water finance authority. (c) "Project" means any acquisition, construction, reconstruction, improvement, equipping, rehabilitation or extension of all or any part of a public

water supply system. "Project" does not include any project related to the diversion or transportation of water acquired through a water transfer, as defined by K.S.A. 82a-1501 and amendments thereto. (d) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto. (e) "Public water supply system" has the meaning provided by K.S.A. 65-162a and amendments thereto. (f) "Secretary" means the secretary of health and environment.

History: L. 1994, ch. 349, § 1; L. 1996, ch. 160, § 3; L. 1997, ch. 188, § 1; July 1.

65-163e. Same; public water supply loan fund established; sources of revenue; purposes for disbursements therefrom. (a) There is hereby established in the state treasury the public water supply loan fund. (b) Moneys from the following sources shall be credited to the fund: (1) Amounts received by the state from the federal government for the purposes of the fund; (2) amounts appropriated or otherwise made available by the legislature for the purposes of the fund; (3) proceeds derived from the sale of bonds issued under K.S.A. 1999 Supp. 65-163l through 65-163t, and amendments thereto; (4) amounts of repayments of loans made under this act, together with payments of interest thereon, in accordance with agreements entered into by the borrower and the secretary; (5) interest attributable to investment of moneys in the fund; and (6) amounts received from any public or private entity for the purposes of the fund. (c) Subject to the conditions and in accordance with requirements of this act, moneys credited to the fund shall be used only: (1) To make loans to municipalities for payment of all or part of project costs; (2) as a source of revenue or security for the payment of principal and interest on bonds issued under K.S.A. 1999 Supp. 65-163l through 65-163t, and amendments thereto, if, and to the extent that, the proceeds of the sale of such bonds are deposited in the fund; (3) to earn interest on moneys in the fund; and (4) for the reasonable costs, as determined by the secretary, of administering the fund and conducting activities under this act. Such costs shall be identified annually in development of the intended use plan as described in K.S.A. 1999 Supp. 65-163h, and amendments thereto. (d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the public water supply loan fund interest earnings based on: (1) The average daily balance of moneys in the public water supply loan fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. (e) All payments and disbursements from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary. All payments and disbursements from the fund, and beginning and ending balances thereof, shall be subject each year to post audit in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated.

History: L. 1994, ch. 349, § 2; L. 1996, ch. 253, § 12; May 23.

65-163f. Same; authority and duties of the secretary of health and environment; rules and regulations. The secretary shall administer the provisions of this act and shall be responsible for administration and management of the fund. The secretary is hereby authorized to: (a) Enter into binding commitments for the provision of loans in accordance with the provisions of this act; (b) review applications of municipalities for loans and select the projects for which loans will be made available; (c) provide the governor and the legislature with an annual report prepared in accordance with K.S.A. 1999 Supp. 65-163k and with copies of the audit required under K.S.A.

1999 Supp. 65-163e; and **(d)** adopt rules and regulations necessary for effectuation of the provisions of this act.

History: L. 1994, ch. 349, § 3; July 1.

65-163g. Same; project priority system development; priority list preparation, considerations. **(a)** The secretary shall develop a priority system for projects, establish ranking criteria therefor, review applications of municipalities for loans and prepare an annual project priority list. The priority list shall include a description of each project; the purpose, cost and schedule therefor; and the municipality applying for the loan. After preparation of the priority list, the secretary shall select from such list the projects for which loans will be made available. **(b)** In performing the functions and duties required by subsection (a), the secretary shall: (1) Exclude from the priority list any project of a municipality which has not adopted and implemented conservation plans and practices that are consistent with the guidelines developed and maintained by the Kansas water office pursuant to K.S.A. 74-2608 and amendments thereto; (2) in consultation with the Kansas water office, encourage regional cooperative public water supply projects in accordance with the public water supply regionalization strategy of the state water plan; and (3) ensure that a fair proportion, at least but not limited to 20%, of the total dollar amount of loans to be made available from the fund in each year will be made available for projects of municipalities having populations of 5,000 or less, except that, if such municipalities are unable to utilize the total amount made available under this subsection, the secretary is authorized to make the unused amount available for other projects on the priority list.

History: L. 1994, ch. 349, § 4; July 1.

65-163h. Same; intended use plan for available moneys. After providing for public comment and review each year, the secretary shall prepare a plan identifying the intended uses of the moneys available in the fund. The intended use plan shall include, but not be limited to: **(a)** The project priority list; **(b)** a description of the short- and long-term goals and objectives of the fund; **(c)** information on the projects to be financed, including a description thereof, the terms of loans to be provided and the municipalities receiving the loans; and **(d)** the criteria and method established for the provision of loans to be made from the fund.

History: L. 1994, ch. 349, § 5; July 1.

65-163i. Same; applications for loans; loan agreements, provisions; provision of technical assistance by secretary. **(a)** Municipalities which desire the provision of a loan under this act shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary. **(b)** The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by the municipal governing body. The purposes of the loan to be provided, the amount thereof, the interest rate thereon and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates. All such agreements with municipalities shall require that municipalities establish a

dedicated source of revenue for repayment of the loans as provided in K.S.A. 1999 Supp. 65-163j. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project and that such loan shall be repaid in full no later than 20 years thereafter. (c) If a municipality to which a loan is made available under this act fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of this act, the secretary may make the amount of the loan available for one or more other projects on the priority list. (d) The secretary shall provide any municipality, upon request, with technical advice and assistance regarding a project or an application for a loan for the payment of all or part of project costs.

History: L. 1994, ch. 349, § 6; July 1.

65-163j. Same; loan repayment sources of municipalities; imposition of charges by secretary; remedy for failure to repay project loans; maintenance of project accounts. (a) The dedicated source of revenue for repayment of a loan to a municipality may include service charges, connection fees, special assessments, property taxes, grants or any other source of revenue lawfully available to the municipality for such purpose. In order to ensure repayment by municipalities of the amounts of loans provided under this act, the secretary, after consultation with the governing body of any municipality which receives a loan, may adopt charges to be levied against individuals and entities served by the project. Any such charges shall remain in effect until the total amount of the loan, and any interest thereon, has been repaid. The charges shall, insofar as is practicable, be equitably assessed and may be in the form of a surcharge to the existing charges of the municipality. The governing body of any municipality which receives a loan under this act shall collect any charges established by the secretary and shall pay the moneys collected therefrom to the secretary in accordance with procedures established by the secretary. (b) Upon the failure of a municipality to meet the repayment terms and conditions of the agreement, the secretary may order the treasurer of the county in which the municipality is located to pay to the secretary such portion of the municipality's share of the local ad valorem tax reduction fund as may be necessary to meet the terms of the agreement, notwithstanding the provisions of K.S.A. 79-2960 and 79-2961, and amendments thereto. Upon the issuance of such an order, the municipality shall not be required to make the tax levy reductions otherwise required by K.S.A. 79-2960 and 79-2961, and amendments thereto. (c) Municipalities which are provided with loans under this act shall maintain project accounts in accordance with generally accepted government accounting standards. (d) Any loans received by a municipality under the provisions of this act shall be construed to be bonds for the purposes of K.S.A. 10-1116 and 79-5028, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the municipality.

History: L. 1994, ch. 349, § 7; July 1.

65-163k. Same; annual reports. The secretary shall prepare an annual report describing how the state has met the goals and objectives for the previous year as identified in the intended use plan prepared pursuant to K.S.A. 1999 Supp. 65-163h.

History: L. 1994, ch. 349, § 8; July 1.

65-163l. Same; authority to issue bonds. (a) For the purpose of making loans under this act, the secretary may either: (1) Issue revenue bonds; or (2) enter into agreements with the Kansas development finance authority to issue revenue bonds. Such bonds may be sold at public sale or by a negotiated underwriting. (b) The activities of the secretary in administering and performing the powers, duties and functions prescribed by the provisions of this act from the proceeds of bonds issued for such purpose by the Kansas development finance authority are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of such bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto.

History: L. 1994, ch. 349, § 9; July 1.

65-163m. Same; bond resolutions, contents; authorities of secretary relating to issuance of bonds. (a) Prior to the issuance of the revenue bonds under this act, a resolution or resolutions shall be adopted which, unless otherwise provided therein, shall take effect immediately and: (1) Determine an interest rate or rates to be paid on the principal of the revenue bonds not in excess of the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto; (2) determine that the revenue bonds will be term or serial bonds or any combination thereof maturing not later than 40 years from the date of issuance; (3) make provision for prompt payment of the principal of and interest on the revenue bonds as they become due, to maintain any required reserves and to provide for any deficits resulting from failure to receive sums payable for the principle of or interest on loans made under this act or resulting from any other cause; (4) sell the revenue bonds in the manner provided by K.S.A. 10-106 and amendments thereto, at a price of not less than 90% of the par value thereof; and (5) register the revenue bonds with the state treasurer. (b) Prior to the issuance of the revenue bonds, the secretary may: (1) Pledge to the payment of the principal of and interest on the revenue bonds amounts received for payment of the principal of and interest on loans made under this act and any other amounts received for the purpose of payment of the principal of and interest on the revenue bonds; (2) create and maintain (A) revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due and (B) a reasonable reserve fund; and (3) covenant or contract with respect to any and all matters consistent with the authority granted herein necessary and convenient in the determination of the secretary to sell the revenue bonds and obtain the most favorable interest rate thereon, including, but not limited to, maturities, priority of liens, number of issuances, special funds for security, redemption privileges, investments of the proceeds of the revenue bonds and any other funds pledged to the payment thereof or held as security therefore, security agreements, trust indentures, paying agencies, registration provisions and conversion privileges.

History: L. 1994, ch. 349, § 10; July 1.

65-163n. Same; bonds issued not state indebtedness; enforceability of contracts, agreements and covenants. (a) Revenue bonds issued under this act, including refunding revenue bonds authorized hereunder, shall be special obligations in accordance with their terms and shall not constitute an indebtedness of the state of Kansas or the department, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of

indebtedness. **(b)** All contracts, agreements and covenants contained in the resolution authorizing the issuance of revenue bonds shall be binding in all respects upon the department of health and environment and its officials, agents, employees and successors. Such agreements, contracts and covenants shall be enforceable by appropriate legal action brought pursuant to the terms of the resolution authorizing the issuance of revenue bonds.

History: L. 1994, ch. 349, § 11; July 1.

65-163o. Same; issuance of refunding bonds. Revenue bonds may be issued for the purpose of refunding revenue bonds issued under this act.

History: L. 1994, ch. 349, § 12; July 1.

65-163p. Same; disposition of revenue derived from bond sales. The proceeds derived from the sale of all revenue bonds issued under this act shall be deposited in the state treasury and credited to the fund.

History: L. 1994, ch. 349, § 13; July 1.

65-163q. Same; income from bonds exempt from taxation. The revenue bonds issued under this act and any refunding revenue bonds authorized to be issued under this act, and the income derived therefrom, are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas inheritance taxes.

History: L. 1994, ch. 349, § 14; July 1.

65-163r. Same; bonds deemed legal and proper securities for investment by governmental entities. Revenue bonds issued under this act shall be proper and legal investment securities for any investment funds of the state of Kansas or any department, agency or institution thereof, or any county, municipal or other public corporation or political subdivision created pursuant to the laws of the state of Kansas. Revenue bonds issued under this act are hereby deemed and approved as collateral security for the deposit of any and all funds and for the investment of all trust funds under the jurisdiction of the laws of the state of Kansas.

History: L. 1994, ch. 349, § 15; July 1.

65-163s. Same; powers supplemental to other powers of the secretary; severability. (a) This act constitutes full and complete authority for the purposes set out in this act, and no procedure or proceedings other than those required by this act shall be necessary for the performance of the provisions thereof. The powers conferred by this act shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred on the secretary by any other law. **(b)** The provisions of this act are severable, and if any provision, section, subsection, sentence, clause or phrase of this act, including, but not limited to, the provisions relating to any of the sources of revenues for payment of bonds authorized pursuant to this act are for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this act. The

legislature hereby declares that it would have passed this act and each provision, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the same are declared invalid.

History: L. 1994, ch. 349, § 16; July 1.

65-163t. Same; publication of notice of bond issuance, contents; actions to contest, timing. Prior to the issuance of any revenue bonds under this act and after the adoption of a resolution authorizing any revenue bonds under this act, the secretary shall cause to be published once in the Kansas register a notice to all persons interested that the revenue bonds will be issued under this act. The notice shall state the amount or maximum amount of revenue bonds to be issued pursuant to such resolution, together with a brief statement of the purposes for which the proceeds are to be used, and further, that unless an action to contest the legality of the proposed revenue bonds is filed in a court of law within 30 days from the date of such publication, the right to contest the legality of any revenue bonds issued in compliance with the proceedings taken by the secretary prior to the date of such publication and the right to contest the validity of the provisions of such proceedings shall cease to exist and no court shall thereafter have authority to inquire into such matters. After the expiration of the 30 days, no one shall have any right to commence an action contesting the validity of such revenue bonds or the provisions of such proceedings and all revenue bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

History: L. 1994, ch. 349, § 17; July 1.

65-163u. Same; general obligation bond issuance authority for municipalities; election not required and not subject to bonded debt limitations. (a) A municipality may issue general obligation bonds for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality. Such bonds shall be issued, registered, sold, delivered and retired in accordance with the general bond law. (b) Notwithstanding any other provision of law to the contrary, no election shall be required for the issuance of general obligation bonds or revenue bonds by a municipality for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality. Such general obligation bonds shall not be subject to or within any bonded debt limitation provided by law.

History: L. 1994, ch. 349, § 18; L. 1996, ch. 160, § 4; July 1.

65-170. Director of the division of environment; duties in carrying out the provisions of 65-161 to 65-170. For the purpose of carrying out the provisions of this act it shall be the duty of the director of the division of environment to investigate and report upon all matters relating to water supply and sewerage and the pollution of the waters of the state that may come before the secretary of health and environment for investigation or action, and to make such recommendations in relation thereto as the director may deem wise and proper, and to make such special investigations in relation to methods of sewage disposal and to public water supply and the purification of water as may be necessary in order to make proper recommendations in regard thereto, or as may be required by the secretary of health and environment. Suits under the provisions of this act shall be brought in the name of the state of Kansas by the attorney general of the state in any court of competent

jurisdiction, and the penalties and fines recoverable under the provisions of this act shall be paid to the state treasurer as provided in K.S.A. 20-2801 and amendments thereto.

History: L. 1907, ch. 382, § 11; L. 1909, ch. 226, § 5; R.S. 1923, 65-170; L. 1974, ch. 295, § 3; L. 1974, ch. 352, § 31; L. 1978, ch. 105, § 18; L. 1986, ch. 318, § 85; July 1.

65-170a. Public water supply systems, water pollution, sewage discharge; "person" defined. For the purposes of this act the word "person" shall mean any individual, company, corporation, institution, municipality, township, county, federal agency, or legally constituted sewer district.

History: L. 1973, ch. 244, § 1; April 18.

65-170b. Same; access to properties and facilities; inspection and monitoring requirements. In performing investigations or administrative functions relating to water pollution or a public water supply system as provided by K.S.A. 65-161 to 65-171j, inclusive, or any amendments thereto, the secretary of health and environment or the secretary's duly authorized representatives upon presenting appropriate credentials, may enter any property or facility which is subject to the provisions of K.S.A. 65-161 to 65-171j, inclusive, or any amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to water pollution or public water supply. The secretary of health and environment or the secretary's duly authorized representative shall make such requirements as they deem necessary relating to the inspection, monitoring, recording and reporting by any holder of a sewage discharge permit issued under K.S.A. 65-165, or any holder of a public water supply system permit issued under K.S.A. 65-163.

History: L. 1973, ch. 244, § 2; L. 1974, ch. 352, § 32; L. 1977, ch. 212, § 4; April 14.

65-170c. Penalties for making false statement, representation or certification. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under the provisions of K.S.A. 65-161 to 65-171h, inclusive, or any amendments thereto, or who falsified, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to said statutes, shall be punished upon conviction by a fine of not less than twenty-five dollars (\$25) and not more than ten thousand dollars (\$10,000). Each day in which the failure to comply with such requirements or other violation continues shall constitute a separate offense.

History: L. 1973, ch. 244, § 3; April 18.

65-170d. Public water supply systems; pollution violations; penalties; procedure; hearings. (a) Any person who violates: (1) Any term or condition of any sewage discharge permit issued pursuant to K.S.A. 65-165 and amendments thereto; (2) any effluent standard or limitation or any water quality standard or other rule or regulation promulgated pursuant to K.S.A. 65-171d and amendments thereto; (3) any filing requirement made pursuant to K.S.A. 65-164 or 65-166, and amendments thereto; (4) any reporting, inspection or monitoring requirement made pursuant to this act or K.S.A. 65-166 and amendments thereto; or (5) any lawful order or requirement of the

secretary of health and environment shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to \$10,000 for every such violation. In the case of a continuing violation, every day such violation continues shall, for the purpose of this act, be deemed a separate violation. **(b)** The director of the division of environment, upon a finding that a person has violated any provision of subsection (a), may impose a penalty within the limits provided in this section, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed. **(c)** No such penalty shall be imposed except upon the written order of the director of the division of environment to such person stating the violation, the penalty to be imposed and the right of such person to appeal to the secretary of health and environment. Any such person may, within 15 days after service of the order make written request to the secretary of health and environment for a hearing thereon. The secretary of health and environment shall hear such person or persons in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. **(d)** Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1973, ch. 244, § 4; L. 1974, ch. 352, § 33; L. 1986, ch. 318, § 86; L. 1988, ch. 356, § 180; July 1, 1989.

65-171g. Protection of water and air from sewage contamination. Water supply shall be protected against contamination from sewage by the prohibition of any connection between sewage and water systems which provide the possibility of water contamination by means of back syphonage or direct connection. Air in enclosed spaces shall be protected against contamination from toxic, explosive, or disagreeable gases or vapors from a sewage system by providing leak-tight and substantial waste and ventilation connections, and liquid sealed traps on all plumbing fixtures discharging into any type of sewage disposal systems.

History: L. 1951, ch. 363, § 1; June 30.

65-171h. Minimum standards for sanitary water and sewage systems. The secretary of health and environment in pursuance of his general power of supervision over the interests of the health and life of the citizens of this state, and the sanitary conditions under which they live and in order to protect the quality of the waters of the state for beneficial uses is hereby authorized and empowered to develop, assemble, compile, approve and publish minimum standards of design, construction, and maintenance of sanitary water and sewage systems, and shall publish and make available such approved minimum standards to municipalities, communities and citizens of this state, and shall from time to time make recommendations to the appropriate committees of the legislature, for any legislation that may be required to adequately protect air in enclosed spaces, and water supply from contamination.

History: L. 1951, ch. 363, § 2; L. 1967, ch. 333, § 5; L. 1974, ch. 352, § 42; July 1.

65-171i. Same; analyses to be performed by laboratory certificated by secretary. Whenever any water sample analysis is required by the secretary of health and environment for the purposes of any permit or application for a permit under K.S.A. 65-163, 65-165 or 65-171d, or any amendments thereto, such water sample analysis shall be performed by a laboratory which has been certified and approved by the secretary of health and environment pursuant to this act and any rules

and regulations adopted hereunder.

History: L. 1976, ch. 260, § 2; July 1.

65-171m. Public water supply systems; primary drinking water standards; rules and regulations, authority to adopt, scope; stringency of standards; requiring fluorides prohibited.

The secretary of health and environment shall adopt rules and regulations for the implementation of this act [*]. In addition to procedural rules and regulations, the secretary may adopt rules and regulations providing for but not limited to: **(a)** Primary drinking water standards applicable to all public water supply systems in the state. The primary drinking water standards may (1) identify contaminants which may have an adverse effect on the health of persons; (2) specify for each contaminant either a maximum contaminant level that is acceptable in water for human consumption, if it is economically and technologically feasible to ascertain the level of such contaminant in water in public water supply systems; or the treatment techniques or methods which lead to a reduction of the level of the contaminant sufficient to protect the public health, if it is not economically or technologically feasible to ascertain the level of the contaminant in the water in the public water supply system; and **(b)** establish the requirements for adequate monitoring, maintenance of records and submission of reports, sampling and analysis of water, citing criteria and review and inspections to insure compliance with the contaminant levels or methods of treatment and to insure proper operation and maintenance of the public water supply system; and **(c)** the definition of different categories of public water supply systems such as community water supply systems and noncommunity water supply systems and may provide for varying requirements for monitoring, maintenance of records and reporting, sampling and analysis of water, citing criteria, and review and inspections based on numbers of persons served, source of supply whether surface or groundwater or other conditions as the secretary may determine to be in the interest of public health and welfare and economic benefits. The standards established under this section shall be at least as stringent as the national primary drinking water regulations adopted under public law 93-523. No primary drinking water standard or rule and regulation may require the addition of fluorides to public water supplies.

*"This act" see, also 65-162a, 65-163, 65-163a, 65-170b and 65-171n et seq.

History: L. 1977, ch. 212, § 5; April 14.

65-171n. Same; development of emergency plans by secretary. The secretary of health and environment shall develop plans for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. The plans shall identify potential sources of contaminants, situations or conditions that could place the contaminants in the public drinking water, techniques and methods to be used by public water supply systems to reduce or eliminate the dangers to public health caused by the emergency situations or conditions, methods and times for analysis or testing during emergency situations or conditions, alternate sources of water available to public water supply systems and methods of supplying drinking water to consumers if a public water supply system cannot supply the water.

History: L. 1977, ch. 212, § 6; April 14.

65-171o. Public water supply systems; suppliers to provide notice, when; form of notice. The secretary of health and environment may require a supplier of water to give notice to the persons served by the public water supply system and to the secretary of health and environment whenever the public water supply system: **(a)** Is not in compliance with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a primary drinking water standard adopted under K.S.A. 65-171m, and amendments thereto; or **(b)** fails to perform monitoring, testing, analyzing or sampling as required; or **(c)** is subject to a variance or exception; or **(d)** is not in compliance with the requirements prescribed by a variance or exemption; or **(e)** is subject to potential lead contamination from either or both of the following: (1) The lead content in the construction materials of the public water distribution system; (2) corrosivity of the water supply sufficient to cause leaching of lead. The secretary of health and environment shall by rule and regulation prescribe the form and manner for giving such notice.

History: L. 1977, ch. 212, § 7; L. 1979, ch. 190, § 1; L. 1988, ch. 248, § 1; April 21.

65-171p. Public water supply systems; variances; conditions; notice; requests for public hearing; scheduled compliance. **(a)** The secretary of health and environment may grant a variance from an applicable primary drinking water standard to a public water supply system where the variance will not result in an unreasonable risk to the public health and where, because of the characteristics of the raw water sources reasonably available to the public water supply system, the public water supply system cannot meet the maximum contaminant levels of the primary drinking water standards despite application of the best technology, treatment techniques or other means which the secretary finds are generally available, taking costs into consideration. **(b)** Prior to granting a variance, the secretary shall provide notice in a newspaper of general circulation serving the area served by the public water supply system of the proposed variance and that interested persons may request a public hearing on the proposed variance. If a public hearing is requested the secretary shall set a time and place for the hearing. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Frivolous or insubstantial requests for a hearing may be denied by the secretary. **(c)** A variance shall be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health. A variance granted shall include a schedule of compliance under which the public water supply system is required to meet each contaminant level for which a variance is granted within a reasonable time as specified by the secretary.

History: L. 1977, ch. 212, § 8; L. 1988, ch. 356, § 182; July 1, 1989.

65-171q. Same; exemptions; required findings; notice; requests for public hearings; scheduled compliance. **(a)** The secretary of health and environment may grant an exemption from any requirement relating to a maximum contaminant level or from any treatment technique requirement, or from both, of an applicable primary drinking water standard to a public water supply system upon a finding that: (1) The exemption will not result in an unreasonable risk to the public health; (2) the public water supply system is unable to comply with the contaminant level or treatment technique requirement due to compelling factors, which may include economic factors; and (3) the public water supply system was in operation on the effective date of the contaminant level or treatment technique requirement. **(b)** Prior to granting an exemption, the secretary shall provide notice in a newspaper of general circulation serving the area served by the public water

supply system of the proposed exemption and that interested persons may request a public hearing on the proposed exemption. (c) If a public hearing is requested the secretary shall set a time and place for the hearing. Frivolous and insubstantial requests for a hearing may be denied by the secretary. An exemption shall be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health. An exemption granted shall include a schedule of compliance under which the public water supply system is required to meet each contaminant level or treatment technique requirement for which an exemption is granted within a reasonable time as specified by the secretary.

History: L. 1977, ch. 212, § 9; April 14.

65-171r. Same; prohibited acts. The following acts are prohibited: (a) The operation of a public water supply system without first obtaining a valid public water supply system permit under K.S.A. 65-163, and amendments thereto; (b) the operation of a public water supply system in violation of the conditions of the public water supply system permit under K.S.A. 65-163, and amendments thereto; (c) the failure of a supplier of water under investigation to furnish information to the secretary under K.S.A. 65-163, and amendments thereto; (d) the failure of a supplier of water to comply with any final order of the secretary issued under the provisions of K.S.A. 65-163 or 65-163a, and amendments thereto; (e) the failure of a supplier of water to comply with a primary drinking water standard established under K.S.A. 65-171m, and amendments thereto, and rules and regulations adopted pursuant thereto unless a variance or exception has been granted; (f) the failure of a supplier of water to comply with the rules and regulations of the secretary for monitoring, maintenance of records and submission of reports, sampling and analysis of water and inspections adopted under K.S.A. 65-171m, and amendments thereto; (g) the failure of a supplier of water to give notice as required under K.S.A. 65-171o, and amendments thereto, and rules and regulations adopted pursuant thereto; (h) using any pipe, solder or flux in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption, which is not lead-free, except that this paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes. As used in this paragraph, "lead-free" means: (1) With respect to its usage in conjunction with solder and flux, solder and flux containing not more than .2% lead, and (2) with respect to its usage in conjunction with pipes and pipe fittings, pipes and pipe fittings containing not more than 8% lead; (i) the sale of unmarked lead solders and fluxes. A seller of lead solders and fluxes in Kansas shall not sell any solder or flux containing more than .2% lead unless the seller displays a sign and a label is affixed to such product which states: "Contains lead: Kansas law and federal law prohibits the use of this product in any plumbing installation providing water for human consumption."; (j) the application of fertilizers, pesticides or other chemicals by any person through any lawn irrigation system connected to a public water supply system except that in areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsiphonage which has been approved by the secretary of health and environment, such application may be permitted by the public water supply system upon its periodic inspection and current approval of the installed air gap or reduced pressure zone backflow prevention device which isolates the irrigation system; and (k) the use by any person of a public water supply system as a source of make-up water for bulk chemical application tanks except that: (1) In areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsiphonage which has been approved by the

secretary of health and environment, such use may be permitted by the public water supply system upon its periodic inspection and current approval of an air gap or reduced pressure zone backflow prevention device to protect the public water supply; and (2) in areas where the public water supply system has not adopted a program approved by the secretary of health and environment, such use shall be permitted if an air gap or reduced pressure zone backflow prevention device is used and such device meets nationally recognized standards, as determined by the secretary of health and environment.

History: L. 1977, ch. 212, § 10; L. 1988, ch. 248, § 2; L. 1991, ch. 180, § 1; July 1.

65-171s. Same; violation of standards; penalties; procedure; hearing; judicial review.

(a) Any person who violates any provision of K.S.A. 65-171r and amendments thereto shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not more than \$5,000 for each violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation. The secretary, upon a finding that a person has violated any provision of K.S.A. 65-171r and amendments thereto, may impose upon the person a civil penalty of not to exceed the limitations provided in this section. In determining the amount of the civil penalty, the secretary shall take into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and any corrective actions taken. (b) All civil penalties assessed shall be due and payable within 35 days after written notice of the imposition of a civil penalty is served on the person upon whom the penalty is being imposed, unless a longer period of time is granted by the secretary or unless the person appeals the assessment as provided in this section. (c) No civil penalty shall be imposed under this section except upon the written order of the secretary to the person upon whom the penalty is to be imposed, stating the nature of the violation, the penalty imposed and the right of the person upon whom the penalty is imposed to appeal to the secretary for a hearing on the matter. A person upon whom a civil penalty has been imposed may appeal, within 15 days after service of the order imposing the civil penalty, to the secretary. If appealed, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The decision of the secretary shall be final unless review is sought under subsection (d). (d) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1977, ch. 212, § 11; L. 1986, ch. 318, § 87; L. 1988, ch. 356, § 183; July 1, 1989.

65-171t. Same; attorney general to seek injunctive relief. The attorney general, upon the request of the secretary of health and environment, shall bring an action in the name of the state of Kansas to seek injunctive relief to prevent the violation, or to enjoin any continuing violation, of any provision of this act [*] or any rule and regulation adopted pursuant to the provisions of this act [*].

* "This act", see also, 65-162a, 65-163, 65-163a , 65-170b and 65-171m et seq.

History: L. 1977, ch. 212, § 12; April 14.

65-171y. Public water supply system regulation of lawn irrigation systems. (a) Subject to the provisions of subsection (b), any lawn irrigation system which is not used for the application of fertilizers, pesticides or other chemicals shall not be deemed to be a high-hazard water system, and shall not be required to be equipped with a high-hazard backflow prevention device. Any such lawn irrigation system installed, renovated, replaced or extended on or after July 1, 1994, shall have at least a low-hazard double check valve assembly as a minimum level of backflow protection and any such valve on a new system installed after July 1, 1994, shall be installed in such a manner as to be easily accessible for inspection. (b) A public water supply system operated by a city or county may impose any requirement, in addition to that provided by subsection (a), for backflow protection or prevention on lawn irrigation systems which are not used for the application of fertilizers, pesticides or other chemicals and which are connected to the public water supply system.

History: L. 1994, ch. 349, § 19; July 1.